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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NUSCIENCE CORPORATION, a
California corporation,

Plaintiff,

vs.

ROBERT HENKEL, an individual,
ROBERT HENKEL, d/b/a/
DEUTROCELL, a business entity of
unknown form, and MICHAEL
HENKEL, an individual,

Defendants.

Case No.: 2:08-CV-2661-R-(FFMx)

**EMERGENCY EX PARTE
APPLICATION FOR
ENFORCEMENT OF ARREST
WARRANTS AND REQUEST FOR
INITIATION OF CRIMINAL
CONTEMPT PROCEEDINGS
AGAINST MICHAEL HENKEL AND
JOSEPH HENKEL; MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATION OF MICHAEL J.
SALTZ**

TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Plaintiff NuScience Corporation
("NuScience") hereby applies ex parte for the following relief:

1. That this Court enforce its current orders of contempt and make all necessary orders to enforce and execute the arrest warrant for Michael Henkel and to incarcerate him until such time that he purges himself of contempt;

2. Issue an arrest warrant for Joseph Henkel and make all necessary orders for the immediate enforcement of that order to incarcerate Joseph Henkel until such time that he purges himself of contempt; and
3. Initiate criminal contempt proceedings against both Michael Henkel and Joseph Henkel for their intentional and willful violations of this Court's orders and for making false sworn statements to this Court in order to mislead this Court as to their willingness to comply with its orders.

The above orders are necessary to stop the blatant, wanton and undeterred violation of this Court's Judgment and Orders of Contempt by Defendant Michael Henkel and Third Party Contemnor Joseph Henkel. This application is to be heard on a date set by the Court ("Application"). Immediate incarceration of Michael Henkel and Joseph Henkel is necessary at this point.

This Application is made on the grounds that Defendant Michael Henkel ("Michael"), by himself and through his brother Joseph Henkel ("Joseph"), have again conspired and acted to intentionally violate this Court's Judgment and Orders by, among other things, alleging to be manufacturing Everett Storey's Original Formula ("Formula") for sale to the public, threatening to publish and reveal highly protected trade secret ingredients for CELLFOOD®, asserting their knowledge of the protected trade secret ingredients in and to the subject Formula, soliciting the public to speak to them about their knowledge of the subject Formula, re-posting material previously ordered by this Court to be permanently taken down, harassing Plaintiff's customers and business partners, harassing Plaintiff's employees and staff, and posting thinly veiled threats of violence against employees of NuScience.

Amidst continued and voluminous warnings over multiple years by this Court, threats of incarceration, and the actual issuance of an arrest warrant, both Michael and Joseph Henkel have continued their contemptuous conduct with impunity and flagrant disregard for this Court's authority.

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Despite these warnings, this Court has yet to take any action to enforce its contempt orders. Time and again NuScience has warned this Court that the Henkels have a pattern and practice of feigning compliance when threatened with incarceration, only to show up months later and engage in the very same conduct that prompted the Court's attention in the first place. This cycle **must end now** with the immediate incarceration of Michael Henkel and Joseph Henkel for their refusal to comply with this Court's orders. In addition it is hereby requested that due to the severity and maliciousness of their conduct, Plaintiff NuScience requests that this Court initiate criminal contempt proceedings.

By way of example, and not limitation, amongst the harassing postings and threats to NuScience to release the Formula, Michael Henkel has within the past few weeks begun posting the following:

kevin...just so you know.....i am still selling d2so4.....soon i will re-incorporate.....and wait for you to make your move.....and then i will crush your scamming punk fucking ass once and for all....try me tough guy.

The post continues with a comment also by Michael Henkel that states

that is if you are still around after my brother Bob gets done with you

[See Declaration of Michael J. Saltz ("Saltz") ¶ 14, Exhibit "6"].

Michael is making blatant threats regarding both the sale of NuScience's trade secret products and on Kevin Negrete's life.

Michael Henkel is also no longer confining himself to Facebook, but has in fact started a Twitter page under the name @CellfoodTruth that is updated multiple times a day. Additionally, Michael and Joseph have created and continually link to a YouTube page under the name of a website created by Joseph Henkel that was previously ordered to be taken down, "The Truth About Cellfood". [See Order dated August 3, 2015, Docket No. ("DN") 271, pg. 7].

1 Michael Henkel acknowledges this creation in a post dated May 9, 2016:

2 check out my new youtube channel!!!!...it stays forever!!!!...THE
3 ONLY WAY I GO AWAY IS FOR YOU TO PUT A BULLET IN MY
4 HEAD!!.....MAKE YOUR MOVE MOTHERFUCKERS.

5 [Saltz Decl., ¶ 16, Exhibit “8”].

6 Notably, **Michael Henkel asserts that he will never stop** these actions, and is
7 otherwise challenging this Court to do something about it. This Court must act now.

8 As this Court knows, Michael Henkel has **never** complied with a single order of
9 this Court and now again openly attacks NuScience and its customers with postings
10 that have been ordered to be taken down, time and again.

11 As an aggravating factor, both Michael Henkel and Joseph Henkel have
12 previously submitted to this Court separate sworn declarations wherein they both
13 declare under penalty of perjury that “I will fully comply with this Court’s Order and
14 pray for its mercy.” [Declaration of Michael Henkel, DN 275, ¶ 4; Declaration of
15 Joseph Henkel, DN 276, ¶ DN 276, ¶ 4]. Both Michael and Joseph Henkel have not
16 only continuously violated this Court’s Judgment and Orders over the years, they have
17 also now committed perjury in an attempt to deceive this Court as to their willingness
18 to purge themselves of their contempt.

19 This Application is necessary not only to force compliance with this Court’s
20 existing orders, but to also stop the Henkels’ continued contempt and the cycle of
21 feigned compliance.

22 In this case, and for the reasons set forth fully below, NuScience requests that
23 this Court waive the notice requirements under Local Rule 7-19.2 as providing the
24 Henkels with notice of this Application prior to its filing would undeniably put
25 NuScience’s entire business enterprise at risk as evidenced by the recent retaliatory
26 threats to release the Formula and the Henkels’ callous disregard for this Court’s
27 Orders and its authority. [See Saltz Decl., ¶ 26].

28 This application is based on the attached Memorandum of Points and
Authorities, the attached Declaration of Michael J. Saltz filed concurrently herewith

1 and exhibits thereto, the papers and pleadings on file in this action, and any oral or
2 documentary evidence introduced at the hearing of this matter.

3
4 Dated: August 6, 2016

5
6 /s/ Michael J. Saltz

7 Michael J. Saltz, Esq.
8 Attorneys for Plaintiff, NuScience Corporation
9

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MEMORANDUM OF POINTS AND AUTHORITIES

1. INTRODUCTION

Once again, Plaintiff NuScience Corporation (“NuScience”) must come before this Court seeking relief from the intentional and willful violations of this Court’s Judgment and Order by members of the Henkel family.

It is incredibly frustrating, expensive and burdensome for NuScience to continue to chase defendants that at every opportunity willfully violate this Court’s orders and Judgment. Without enforcement of this Court’s arrest warrant against Michael Henkel, the Henkels again assert that they are above the law and beyond this Court’s reproach.

Simply speaking, following this Court’s Order of Contempt dated August 3, 2015 [Docket No. (“DN”) 271], it appeared that the Henkels had finally taken to heart that this Court will not hesitate to exercise its authority to enforce its Judgment and Orders of contempt, including the arrest for any future violations. This Court even took the extraordinary measure to issue a bench warrant for the incarceration of Michael Henkel due to his repeated failure to appear. [See Warrant for Arrest as to Michael Henkel, dated August 3, 2015, DN 272]. This Court also issued a minute order on stating “The Court orders that Michael and Joseph Henkel shall be placed in custody until they fulfill the answering of the questions and comply with the August 2015 Order of this Court.” While Joseph Henkel submitted responses to Counsel for Plaintiff, Michael Henkel failed to do so. [See DN 280, Minute Order dated October 26, 2015].

At that point in time the Henkels had removed all unlawful content from the internet, had ceased contacting NuScience’s customers and more importantly appeared to have stopped speaking about, or threatening to release NuScience’s Formula for CELLFOOD®. After August 3, 2015, it fully appeared that the Henkels would comply. Due to the appearance of compliance by the Henkels, NuScience has not sought to involve this Court further as there was nothing to report. NuScience did not in any way instigate or provoke a response from the Henkels. It appears now that

1 Michael Henkel and Joseph Henkel always intended to violate this Court's Orders of
2 contempt and the Judgment, and as with previous occasions, waited until it believed
3 there would be no immediate response from this Court.

4 Despite the very real threat of severe sanctions, it appears only Robert Henkel
5 has actually taken to heart this Court's authority. By way of example, since Robert
6 Henkel appeared before this Court and was admonished that the next outburst or
7 violation would result in jail time, NuScience has not been made aware of any
8 information, public or private, that would suggest that Robert Henkel is in violation of
9 the Judgment and contempt orders. To date, it appears, and continues to appear that
10 Robert Henkel is in full compliance with this Court's orders.

11 However, despite filing declarations with this Court [DN 275-276], and even
12 appearing and testifying under oath before this Court, both Michael Henkel and Joseph
13 Henkel have again begun to post the same unlawful, contemptuous, salacious, and
14 defamatory statements meant to provoke NuScience and defy this Court's multiple
15 orders of contempt and the underlying Judgment.

16 Michael Henkel and Joseph Henkel now directly challenge the authority of this
17 Court. And in light of the sworn statements that they have previously filed and in
18 continued violation of this Courts Orders, NuScience hereby requests that the Court
19 initiate criminal contempt proceedings in addition to enforcing its incarceration order.

20 **2. EVIDENCE OF FURTHER CONTEMPT**

21 As noted above, both Michael Henkel and Joseph Henkel are again engaged in
22 the very acts that have forced this Court to issue multiple contempt orders against
23 them. There can be no further orders of contempt as they are meaningless to the
24 Henkels. As they are also of limited means, they believe that they are beyond this
25 Court's authority to issue or collect on any monetary orders. As this Court will see if it
26 reviews the entire **four year record of contempt** by the Henkels, incarceration is the
27 only answer and criminal proceedings must be initiated against Michael Henkel and
28 Joseph Henkel.

1 The brothers now appear to be acting in concert, each brother posts various
2 postings to each other's social media sites such as Facebook, Twitter, and now
3 YouTube. They do so with full knowledge that the statements made therein, and the
4 aiding and abetting these actions, are acts in violation of this Court's orders and
5 judgment.

6 While it would be a burden on this Court and NuScience to document and
7 provide every instance of every violation from all social media posts, the following is a
8 summary of the most egregious acts that have occurred in the past month, and continue
9 to occur on a daily basis.

10 Michael Henkel has since posted a prolific amount of information on a new
11 Facebook page located at:

12 <https://www.facebook.com/profile.php?id=100006943654932>.

13 On this site, he has since the month of July, posted the following:

14 CELLFOOD MAFIA...HERE I COME...LOOK OUT...BEST
15 FUCKING PRICE FOR D2SO4 IN THE KNOWN INTERSTELLAR
16 COMMUNITY!!

17 [See Declaration of Michael J. Saltz ("Saltz") ¶ 13, Exhibit "5", July 20, 2016
18 Facebook Posting];

19 In addition to the above posting, various comments visible under the
20 post included:

21 "CALL 1-563-326-0728 FOR THE BEST D2SO4!..AT THE BEST
22 PRICE!.....PERIOD!"

23 "MIKE HENKEL'S D2SO4!!!!.....FUCK EVERETT STOREY!"

24 "FUCK NUSCIENCE...FUCK BRAD POPE...FUCK TIM
25 SANDERS.....PEOPLE STOP THROWING YOUR MONEY
26 AWAY!!!!!!CALL NOW AND DEAL WITH THE TRUTH!"

27 [Saltz Decl., ¶ 13, Exhibit "5", July 20, 2016 Facebook Posting];
28

1 kevin...just so you know.....i am still selling d2so4.....soon i will re-
 2 incorporate.....and wait for you to make your move.....and then i will
 3 crush your scamming punk fucking ass once and for all....try me tough
 4 guy.

5 [Saltz Decl., ¶ 14, Exhibit “6”, May 15, 2016 Facebook Posting];

6 “KEVIN NEGRETE CREATED A FAKE FORMULA “SULFURIC ACID” ...
 7 AND SOLD IT AS CELLFOOD.... THE DRAIN OPENER YOU CAN
 8 DRINK!!!!”

9 [Saltz Decl., ¶ 15, Exhibit “7”, May 19, 2016 Facebook Posting];

10 check out my new youtube channel!!!!...it stays forever!!!!...THE
 11 ONLY WAY I GO AWAY IS FOR YOU TO PUT A BULLET IN MY
 12 HEAD!!.....MAKE YOUR MOVE MOTHERFUCKERS.

13 [Saltz Decl., ¶ 16, Exhibit “8”, May 9, 2016 Facebook Posting];

14 don't buy fake cellfood from nuscience corporation.....i make the real thing for
 15 40 times cheaper when bought in bulk quantities.....1-563-326-0728

16 [Saltz Decl., ¶ 17, Exhibit “9”, May 4, 2016 Facebook Posting];

17 fake and illegal d2so4 formula posting soon!

18 [Saltz Decl., ¶ 18, Exhibit “9”, May 5, 2016 Facebook Posting].

19 DID ON MENTION IT IS SULFURIC ACID?....6.3% TO BE
 20 EXACT.....I KNOW...BECAUSE I HAVE THE FORMULA IN THE
 21 INVENTORS HANDWRITING.....IT STARTED OUT AS A SOIL
 22 CONDITIONER AND A DRAIN OPENER!!!!.....READ IT FOR
 23 YOURSELF IN THE BOOK BEYOND BELIEF COPYRIGHTED BY
 24 EVERETT STOREY IN 1982..... ” .

25 [Saltz Decl., ¶ 19, Exhibit “10”, May 4, 2016 Facebook Posting].

26 ///

27 ///

28 ///

1 CELLFOOD IS 6.3% SULFURIC ACID AND .81% ORGANIC
2 SULFUR COMPOUNDS

3 [Saltz Decl., ¶ 20, Exhibit “11”, May 2, 2016 Facebook Posting].

4 Michael Henkel has also threatened in multiple Facebook Postings on May 6,
5 2016 that information will be sent to Cellfood distributors worldwide. [Saltz Decl., ¶
6 21, Exhibit “12”].

7 Threats to release the formula, statements that he is making the formula, threats
8 that he will never stop violating this Court’s orders and judgment, and harassment of
9 NuScience’s employees and customers. This must stop.

10 Michael Henkel also appears to have opened up a Twitter account at
11 Twitter.com/CellfoodTruth. [Saltz Decl., ¶ 22]. On it, he engages in the same postings
12 as his Facebook page wherein he threatens to release the formula, makes statements
13 that he is making the formula, threatens that he will never stop violating this Court’s
14 orders and judgment, and harasses NuScience’s customers and employees. These
15 instances are an hourly occurrence and continue unabated. For example, Michael
16 Henkel has made the following posts in just the past few weeks:

17 #kevinnegrete sells SULFURIC ACID as a Nutritional Supplement

18 [See Saltz Decl., ¶ 23, Exhibit “14”].

19 The Twitter page also republishes information previously ordered by this Court
20 to be taken down. Specifically, on May 31, 2015 the Twitter page @CellfoodTruth
21 posted a screenshot of the website TheTruthAboutCellfood.Angelfire.com, a website
22 expressly ordered by this Court to be taken down. [See DN 266]. Both Michael Henkel
23 and Joseph Henkel have full knowledge of this order and yet they continue to push this
24 Court’s authority by republishing this information.

25 Michael Henkel has also created a YouTube page that republishes information
26 previously ordered by this Court to be taken down. This page is comprised of three (3)
27 separate videos titled, “CELLFOOD SCANDAL”, “CELLFOOD TEST RESULTS”
28 and “THE TRUTH ABOUT CELLFOOD”. [See Saltz Decl., ¶ 24, Exhibit “15”].

1 The YouTube video titled “CELLFOOD SCANDAL” is comprised of a sound
 2 recording of a hearing for the case NuScience Corporation v. McKinney et. al. [See
 3 Saltz Decl., ¶ 24]. Throughout the video, the viewer can hear the parties’ appearances
 4 and arguments by Nu Science’s counsel. While the recording is playing, various
 5 pictures move across the screen including pictures of motions filed before the Court.
 6 The description of the video reads “Nuscience Counsel says Cellfood is Scandalous”
 7 and has 79 views.

8 Both YouTube videos titled “CELLFOOD TEST RESULTS” and “THE
 9 TRUTH ABOUT CELLFOOD”, posted on or around July 8, 2016 and May 9, 2016
 10 contain what appear to be analyses of CELLFOOD® commissioned by Junda Su,
 11 whom this Court may recall from Contempt proceedings occurring in February of this
 12 year¹. The pages of purported analysis of CELLFOOD®, orderd by Junda Su, are
 13 dated January 16, 2016 and are now in the hands of the Henkels. The posting of this
 14 material continues to show both Michael and Joseph Henkel’s intent to speak about
 15 their knowledge of the Formula to anyone who will listen. The analyses have since
 16 been posted to YouTube, Facebook, Twitter, and to a Google Drive where they are
 17 continually linked to by both Joseph Henkel and Michael Henkel, all in violation of
 18 this Court’s orders and Judgment. [See Saltz Decl., ¶ 6, 8, 9, 10, 11, 12].

19 Theses postings also show that Junda Su is actively and knowingly aiding and
 20 abetting the Henkels in this new round of contemptuous conduct. The evidence now
 21 appears to show that Junda Su was in fact working secretly behind the scenes to assist
 22 the Henkels in violating the Judgment by providing them information purportedly
 23 about CELLFOOD® and its manufacturing process and ingredients for the sole
 24 purpose of allowing the Henkesls to continue to publish in direct violation of the 2009
 25

26
 27 ¹ At those proceedings, this Court did not see that Junda Su’s actions in connection with the Henkels
 28 violated the Judgment as it could not be shown that he had full knowledge of the Judgment when
 conducting business with the Henkels.

1 Judgment that they have knowledge of the manufacturing process of CELLFOOD®
2 and its ingredients, with the exception of water.

3 This is established by the documents published by Michael Henkel and Joseph
4 Henkel as being an analysis of a bottle of CELLFOOD which contain Junda Su's
5 name, the name of his company, Lifont Pharmaceuticals, and his home address in
6 Alpharetta, Georgia. [See Saltz Decl., ¶ 8, 9, 10, 11]. The documents are dated January
7 2016 which were at the time Mr. Su was responding to this Court's Order to Show
8 Cause re Third Party Contempt. The only reason Junda Su could share this
9 documentation with the Henkels is for the purpose to have them publicize the
10 information. He is helping them acquire information that the Henkels are not allowed
11 to talk about. Both Joseph Henkel and Michael Henkel have posted these analyses and
12 have stated their knowledge of the Formula. [See Saltz Decl., ¶ 8, 11].

13 **4. NUSCIENCE REQUESTS THIS COURT TO WAIVE THE NOTICE** 14 **REQUIREMENT UNDER LOCAL RULE 7-19.2**

15 Local Rule 7-19.2 provides that "[i]f the judge to whom the application is made
16 finds that the interest of justice requires that the ex parte application be heard without
17 notice . . . the judge may waive the notice requirement of L.R. 7-19.1." [See Local
18 Rule 7-19.2].

19 In this case, NuScience requests that this Court waive the notice requirements as
20 providing the Henkels with notice of this Application prior to its filing would
21 undeniably put NuScience's entire business enterprise at risk as evidenced by the
22 recent retaliatory threats to release the highly valuable and confidential Formula and
23 the Henkels' callous disregard for this Court's Orders and its authority. [See Saltz
24 Decl. ¶ 26].

25 **5. ENFORCEMENT OF THE CURRENT CONTEMPT ORDERS AND** 26 **REQUEST TO INITIATE CRIMINAL CONTEMPT PROCEEDINGS**

27 This Court has already found both Michael Henkel and Joseph Henkel in
28 contempt of this Court on numerous occasions. Michael Henkel has been found in
contempt four times by this Court, on June 15, 2012 (DN 58), March 31, 2014 (DN

230), November 12, 2014 (DN 241), and August 3, 2015 (DN 271). Joseph Henkel has been found in contempt twice by this Court, on January 5, 2015 (DN 266) and August 3, 2015 (DN 271).

Both Michael Henkel and Joseph Henkel have also submitted to this Court separate declarations wherein they both declare under penalty of perjury that “I will fully comply with this Court’s Order and pray for its mercy.” [Declaration of Michael Henkel, Docket No. (“DN”) 275, ¶ 4; Declaration of Joseph Henkel, DN 276, ¶ DN 276, ¶ 4]. Both Joseph Henkel and Michael Henkel have not only violated this Court’s Judgment and Orders at multiple times over the years, they have also committed perjury. Now they have begun again in actions that this Court previously found to be contemptuous.

At this point, the Court must enforce its orders of arrest against Michael Henkel and Joseph Henkel, and initiate proceedings for criminal contempt.

A court of the United States must have power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority. [18 USC § 401].

Criminal contempt is appropriate where a party’s disobedience of a court order is willful. [*see Falstaff Brewing Corp. v. Miller Brewing Co.* (9th Cir 1983) 702 F2d 770, 772].

Any person who commits criminal contempt may be punished for that contempt after prosecution on notice. [Fed R. Crim. P. 42; see also 18 USC § 401]. The court must give the person notice in open court, in an order to show cause, or in an arrest order. [Fed R. Crim. P. 42(a)(1)].

Based on the evidence provided, it is clear that Michael Henkel and Joseph Henkel are engaged in willful violations of this Court’s multiple orders of contempt. NuScience therefore requests that this Court not only enforce its prior orders of incarceration, but also issue an Order to Show Cause re Criminal Contempt in order to put an end to the repeated actions by Defendants and their third party abettors.

6. CONCLUSION

Defendant Michael Henkel and Third Party Contemnors Joseph Henkel have shown that they wish to continue deliberately violating the permanent injunction provisions of the Judgment, causing damage not only to NuScience and its global network of distributors, but to the authority of this Court. This Court should therefore grant this Application and enforce its bench warrant for Michael Henkel and initiate criminal contempt proceedings against both Michael Henkel and Joseph Henkel.

/s/ Michael J. Saltz